Convention and Humanitarian Refugees

This issue focuses on the two fundamental aspects of Canadian refugee policy - the refugee determination system dealing with claimants who arrive in Canada and claim to be Convention refugees, and the designated classes and special measures focused on humanitarian refugees whom we select abroad under relaxed immigration criteria.

In the interview with Gordon Fairweather, Chairman of the Immigration and Refugee Board, and in the one with Lorne Waldman, a prominent refugee lawyer in Toronto, we have two very contrasting views of the current refugee determination system. From one perspective, the system is somewhat short of perfection, but in the process of evolving in that direction. From the critical perspective, the system is about to implode on itself.

The articles deal with those issues. This editorial, however, is not concerned with the crisis within either the regime dealing with Convention refugees or the one dealing with humanitarian refugees but the emerging one between Convention and humanitarian refugees.

In the late 70s Canada received 200 to 400 spontaneous arrivals claiming refugee status. Between 1982 and 1986, RSAC, the Refugee Status Advisory Committee then vested with the prime responsibility of dealing with Convention refugee claimants, began receiving 2,500 to 4,000 claims per year, a tenfold increase. As we enter the 90s, the Immigration and Refugee Board, whether efficient or inefficient, whether approaching ideal standards of fairness or failing any fairness test, will be receiving between 20,000 and, some estimate, up to 40,000 refugee claims per year, another tenfold.

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increase. For the first time, the Convention refugee program will surpass the humanitarian refugee program.

In a discussion paper specified for official use only in the early 80s, Raphael Girard, who emerged later as the civil servant charged with drafting Bill C-55 (not to mention C-841), the legislation which is the basis for currently dealing with Convention refugee claims, wrote, "it is not desirable to have a resettlement program straddling two main themes, active off-shore selection and the use of asylum as a pro-active program." Girard argued against tolerating a spontaneous inflow of refugees in favour of off-shore selection program. The former was subject to abuse, lack of control and was prone to become involved in legal entanglements. The latter was subject to management and planning, was sensitive to the Canadian public's political preferences, could be aligned with our foreign policy priorities and would avoid the cumbersome and tremendously difficult problem of removals.

Some fear that the increasing number of spontaneous arrivals claiming Convention refugee status will result in the government implementing the "safe third country" provision in the new legislation which Raphael Girard had included precisely to deter and limit large numbers of legitimate refugee claimants which have emerged as anticipated. Claimants who could have made a claim in a country they transited on route to Canada would be sent back to that country.

But there is another fear. The danger may not be that the current Convention refugee determination process is in danger by new government initiatives to undermine it, but that the Canadian program which allows a flexible response towards refugees who may not be able to prove as individuals that they are subject to a well-founded fear of persecution may be sacrificed to pay the increasing costs of handling Convention refugee claims within Canada. We may be on the verge of an impending attack and an attempt to dismantle the humanitarian refugee program.

The discussion on the current refugee determination process and the problems with the self-exiled class should be read with this as a possibility.

Howard Adelman, Editor

Immigration and Refugee Board
Status of Claims

January 1 — March 31, 1990

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<tr>
<th>Initial Hearing Stage</th>
<th>Atlantic</th>
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<th>Ontario</th>
<th>Prairies</th>
<th>B.C. National</th>
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<td>Hearings adjourned/postponed</td>
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<td>(24)*</td>
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<td>Claims withdrawn/abandoned</td>
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<td>Decisions rendered</td>
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<td>3303</td>
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* More claims were concluded then initiated.

Of these decisions
Claims rejected:
- Eligibility: 0 2 7 0 1 10
- Credible basis: 21 49 91 12 10 183

Claims to full hearing: 180 1742 3205 89 411 5627

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Of these decisions
Claims rejected | 7 | 195 | 189 | 11 | 60 | 462 |
Claims upheld | 16 | 771 | 1166 | 79 | 110 | 2082 |